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EXAMINER

IQBAL, KHAWAR

ART UNIT	PAPER NUMBER
2686	6

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/801,418

Applicant(s)

INFOSINO, WILLIAM J.

Examiner

Khawar Iqbal

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-46, relate to a method for determining whether a person is at a particular location, classified in class 455, subclass 456.
  - II. Claims 47-49, relate to battery on the base station is low, classified in class 455, subclass 343.5.
2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because observed location of person. The subcombination has separate utility such as low battery.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. During a telephone conversation on 2-13-04 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-43. Affirmation of this election must be made by applicant in replying to this Office action. Claims 44-45 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-46 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-43 of copending Application No. 09/801417 in view of Yacenda et al. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being unpatentable by Yacenda et al (5822418).

8. Regarding claim 1 Yacenda et al teaches a system for determining whether a person is at a given location, comprising (figs. 1 and 22):

a transmitter periodically emitting a unique signal (col.4, lines 4-10, col. 9, lines 1-21);

a base station containing a receiver (col.4, lines 12-14);

said base station further containing a processor (col. 4, lines 12-14); and

a base station database containing at least one unique record, said unique record corresponding to said person and correlating said unique signal emitted by said transmitter to said unique record in said base station database (col.4, lines 5-25, col. 7, lines 34-45);

wherein said unique signal emitted by said transmitter is of sufficient strength to be received by said receiver only when said transmitter is in close proximity to said receiver (col.8, lines 64-col. 9, lines 10); and

wherein when said base station receives said unique signal from said transmitter, the base station processor makes an entry in the base station database record that corresponds to said transmitter, recording a receipt of said unique signal (col. 14, lines 1-20);  
and

further wherein when said base station fails to receive said unique signal from said transmitter for a predetermined period of time, the base station processor makes an entry in the base station database record that corresponds to said transmitter, recording a failure to receive said signal, thereby recording whether said person is at a given location (col.14, lines 35-39, col. 17, lines 30-40).

Regarding claim 2 Yacenda et al teaches a system for determining whether a person is at a given location, comprising (figs. 1 and 22):

a transmitter periodically emitting a unique signal (col.4, lines 4-10, col. 9, lines 1-21);

a base station containing a receiver; said base station further containing a processor (col.4, lines 12-14);

a base station database containing at least one unique record, said unique record corresponding to said person and correlating said unique signal emitted by said transmitter to said unique record in said base station database (col. 4, lines 12-14);

a telephone connection from the base station to a local telephone network controller (figs.1, 2, element 14); and

a network database maintained by said local telephone network controller, said network database containing a plurality of network database records, each of said network database records corresponding to a telephone number in a local telephone network (col. 8, lines 44-55,col. 18, lines 33-50);

wherein said signal emitted said transmitter of sufficient strength to be received by said receiver only when said transmitter is in close proximity to said receiver (col. 8, lines 64-col. 9, lines 10); and

wherein when said base station receives said unique signal from said transmitter, the base station processor makes an entry in the base station database record corresponding to said transmitter, recording a receipt of said unique signal (col.9, lines 1-21);

further wherein when said base station fails to receive said unique signal from said transmitter for a predetermined period of time, the base station processor makes an entry in the base station database record corresponding to said transmitter, recording a failure to receive said signal (col.14, lines 35-39, col. 17, lines 30-40); and

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wherein, upon detecting a change in at least one of said records in said base station database, the base station initiates a telephone call to said local telephone network controller, uploads said base station database into the network database, and thereafter disconnects said telephone call, thereby updating said network database to record whether said person is at the given location (col.17, lines 30-45 and 48-60, col. 14, lines 52-54, col. 16, lines 5-15).

Regarding claim 3 Yacenda et al teaches wherein the transmitter is in the form of a card that fits into a wallet (col. 5, lines 16-25).

Regarding claim 4 Yacenda et al teaches wherein the transmitter is in the form of a fob that can be attached to a key chain (col. 26, lines 35-40).

Regarding claim 5 Yacenda et al teaches wherein the receiver is contained in a base station combined with a telephone into a single unit (fig. 2, element 14).

Regarding claim 6 Yacenda et al teaches wherein the receiver is contained in a base station comprising a self-contained unit separate from a telephone (fig. 2, element 14, 52).

Regarding claim 7 Yacenda et al teaches wherein said network database is utilized to determine an identity of said person who is at the given location and further to provide specialized telephone services to said person (col. 21, lines 10-19).

Regarding claim 8 Yacenda et al teaches wherein a plurality of telephone numbers may be accessed via one telephone line (figs. 1,2).

Regarding claim 9 Yacenda et al teaches further comprising means for associating said person with at least one of said telephone numbers (col. 21, lines 10-19).

Regarding claim 10 Yacenda et al teaches means for detecting which of the plurality of telephone numbers is being called (col. 21, lines 10-50).

Regarding claim 11 Yacenda et al teaches the use of voice recognition means for identifying the person being called (col. 24, lines 60-65).

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Regarding claim 12 Yacenda et al teaches the use of touchtone means for identifying the person being called (col. 24, lines 60-65).

Regarding claim 13 Yacenda et al teaches wherein the local telephone network controller permits an incoming telephone call to be completed only if a person being called is at the given location (col. 21, lines 7-15, col. 22, lines 15-35).

Regarding claim 14 Yacenda et al teaches wherein, upon a determination that that the person being called is not at the given location, the local telephone network controller returns to a caller a signal indicating that a telephone is ringing without being answered (col. 22, lines 15-35).

Regarding claim 15 Yacenda et al teaches upon a determination that the person being called is not at the given location, the local telephone network controller automatically transfers a caller to a voice mailbox (col. 14, lines 40-48).

Regarding claim 16 Yacenda et al teaches wherein, upon a determination that the person being called is not at the given location, the local telephone network controller automatically transfers a caller to a predetermined alternative telephone number (col. 14, lines 35-60, col. 17, lines 35-47).

Regarding claim 17 Yacenda et al teaches wherein, upon a determination that the person being called is not at the given location, the local telephone network controller permits a caller to select another call recipient (col. 14, lines 35-60).

Regarding claim 18 Yacenda et al teaches wherein the local telephone network controller permits a call waiting signal to be given only if a person being called is at the given location (col. 17, lines 40-47).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 19-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yacenda et al (5822418) and further in view of Borland et al (6246756).
11. Regarding claims 19-26 Yacenda et al teaches the system includes a private branch exchange PBX (10), having a processing unit and several telephones (12,14,16) for enabling telephone communication between several users. A locator, which is connected to the PBX, provides location information. The locator comprises multiple portable badges engaged with the corresponding users and transmits badge information including an identification signal for identifying the user associated with the respective badge. Multiple transceivers (50,52,54) are provided, each of which is operatively connected to the PBX and receives the badge information transmitted from the badges. Each transceiver further electrically forwards a portion of the badge information to the processing unit, to determine location information of the users. A database stores the location information including an archival location data including last location and the time at the last location for each user. The archival location is accessible from any of the telephones. The locator is selectively accessed by the PBX, for retrieving the location information, from any of the telephones. The retrieved location information is transmitted to the selected telephone. One of several telephone functions for use in conjunction with the location information for communicating with a called user is selectively activated.

Regarding claims 19-26 Yacenda et al do not specifically teach a database of at least one subscriber telephone numbers that have restrictions on outgoing telephone calls, and for each of said subscriber telephone numbers, a list of at least one restricted outbound telephone numbers, wherein an outbound telephone call from one of said subscriber telephone numbers to one of said restricted outbound telephone numbers can be completed only if a required person is at the giver location.

In an analogous art, Borland et al teaches a database of at least one subscriber telephone numbers that have restrictions on outgoing telephone calls, and for each of said subscriber telephone numbers, a list of at least one restricted outbound telephone numbers, wherein an outbound telephone call from one of said subscriber telephone numbers to one of said restricted outbound telephone numbers can be completed only if a required person is at the giver location (col. 15, lines 20-65, col. 16, lines 25-65).

Regarding claims 27-46 Yacenda et al teaches a database of at least one subscriber telephone numbers that have restrictions on inbound telephone calls; and for each of said subscriber telephone numbers, a list of at least one restricted inbound telephone numbers, wherein an inbound telephone call to one of said subscriber telephone numbers from one of said restricted inbound telephone numbers can be completed only if at least one required person is at the given location (col. 13, lines 16-65, col. 17, lines 15-65). Telephone usage information indicating permissible telephone usage, ID of registered user and permissible usage time constraint, are stored for each registered user and receiving an incoming call, wherein a telephone number of the incoming call is stored by the incoming call identifier of the telephone system, receiving a first series of dialing signals entered by the user wherein the first series of dialing signals includes call information that includes an identification of the user and comparing the call information to the telephone usage information and denying use of the telephone system to the user if the comparing is indicative of a denial of usage condition. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Yacenda et al by specifically adding feature incoming and outgoing call restricted purpose of the use for stop the confine call in order to enhance monitoring incoming and outgoing call performance the control function purpose of clean the household environment as taught by Borland et al.

**Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bennett, III et al (6370233) teaches determine user presence base upon the user ID.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khawar Iqbal whose telephone number is 703-306-3015.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MARSHA D BANK-HAROLD can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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